DOCUMENT RESUME

ED 084 976 HE 004 865

AUTHOR	Netzer, Dick
TITLE	Issues in the Collective Bargaining Election, I, II, III, IV.
INSTITUTION	New York Univ., N.Y.
PUB DATE	12 Oct 73
NOTE	44p.
EDRS PRICE	MF-$0.65 HC-$3.29
DESCRIPTORS	*Collective Bargaining; *Collective Negotiation; *Decision Making; Essays; *Governance; *Higher Education
IDENTIFIERS	*New York University

ABSTRACT

This document presents four essays that offer a case against replacing New York University's present system of governance and decisionmaking on both economic and professional matters with formal collective bargaining under federal law. The first essay presents an overview of the issues in the collective bargaining election. The second essay addresses the economic issues in the election: the effect, if any, of the institution of collective bargaining on salaries, fringe benefits, and "working conditions." The third essay concerns the role of the faculty and librarian in decisionmaking at the university and how this role might be affected by formal collective bargaining. Finally, the fourth essay reviews the previous essays and responds to arguments in favor of collective bargaining. (Author/MJM)

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

ED 084976

New York University
Interdepartmental Communication

October 12, 1973

Memorandum to: Members of the Full-time Faculty and Librarians

From: Dick Netzer

Subject: Issues in the Collective Bargaining Election, I

As you know, I have undertaken to prepare a series of essays that present the case against replacing the University's present system of governance and decision making on both economic and professional matters with formal collective bargaining under Federal law. This is the first in that series, and is being sent to all full-time faculty members and professional librarians.

You will not find any dire prophecies in these essays. If you choose to be represented by one of the labor organizations contending to be the recognized agent for collective bargaining, the University will neither collapse overnight nor will you all become rich, famous, and happy solely by virtue of the election results. By the same token, if you choose to continue the system of decision making that we have developed in recent years by voting against either union, that action will not instantly resolve the University's manifold problems nor make you badly underpaid minions of a tyrannical administration. The likely consequences of your decision, however it goes, are far less dramatic. However, I am convinced that voting to be represented by a trade union would be a serious mistake, for all of us. In this and subsequent communications, I plan to spell out the reasons.

The key issues that you must decide for yourselves concern the impact of a system of formal collective bargaining under the procedures and rules prescribed by Federal law on the following:

1. Your salaries and fringe benefits.

2. Other matters usually referred to in the law and literature of industrial relations as the "terms

HE 004 865

FILMED FROM BEST AVAILABLE COPY

and conditions of employment," the matters that--along with salaries and fringe benefits--constitute the stuff and substance of labor-management collective bargaining, like job security (tenure, in our case), promotion, workloads and the handling of grievances.

3. The governance of the University and its constituent academic units.

4. The content, style and tone of your everyday professional life here, both now and over the years to come.

These are issues serious enough to call for the kind of thoughtful consideration we've been trained to give to our own scholarly and professional concerns. Collective bargaining will make a difference; to believe otherwise is to believe that the many hours that the proponents of collective bargaining have devoted to their cause were spent frivolously. Thus, I hope you will bear with my prose. I hope, too, that you will consult the by-now extensive literature on collective bargaining in academe. Two recent volumes are worth special mention:

Robert K. Carr and Daniel K. VanEyck, Collective Bargaining Comes to the Campus. Washington: American Council on Education, 1973.

Everett Carll Ladd, Jr., and Seymour Martin Lipset, Professors, Unions and American Higher Education. Berkeley: The Carnegie Commission on Higher Education, 1973.

Both are reasonably dispassionate studies; neither makes the highly unfavorable judgment on collective bargaining that I think their evidence warrants.

In balance of this paper, I want to deal with what seem to me to be misconceptions that have some currency among us. I should begin--to use a famous phrase--by making one thing perfectly clear. You will be voting on whether you are to be represented in collective bargaining by a labor organization, properly concerned with the economic well-being of those it represents, not by an informal band of scholars, a fraternal organization, a marching society, or whatever. The rights and responsibilities of collective bargaining representatives are specified by Federal law, including a body of National Labor Relation Board and court decisions.

Both the law and the inherent dynamics of the collective bargaining process dictate that economic interests be the predominant, if not the sole, concern of labor organizations.

As you know, there has been a substantial body of opinion within the American Association of University Professors opposed to AAUP's contending in collective bargaining elections for just this reason: the belief that AAUP's role as a collective bargaining agent would convert it from a professional society concerned both with the state of American higher education and the status of faculty members (and other academic professionals, like librarians) into a trade union on the industrial model. As Professors Sanford H. Kadish (of Berkeley), William W. Van Alstyne (of Duke) and Robert K. Webb (of Columbia) said in their dissenting minority report to the Fifty-eighth Annual Meeting, entitled "The Manifest Unwisdom of the AAUP as a Collective Bargaining Agency,"

> As a consequence of these factors, the chances of our being able to remain faithful to what we have been are further reduced. For not only are those commitments threatened by the dynamics of the competitive bargaining process; they run the risk of being deliberatively subordinated by a new membership coloration reflecting a quite different view of the virtues of professionalism as traditionally exemplified by the Association.
>
> In brief, the consequence of adopting the Council's proposal may well be to convert the AAUP into the AUUP, the American Union of University Professionals, with a substantial change in the character of its membership, its identity, and its image, sharp impairment of its ability to carry out its historic role and an indeterminately severe curtailment of the effectiveness of the Association's staff and of Committee A and other committees in resolving complaints and furthering basic Association principles and standards.[1]

The history of collective bargaining in general over many years, as well as the short history in higher education, makes it evident that union leaderships face great internal pressure for "success" in collective bargaining and that "success" is measured by the union negotiators' ability to extract economic concessions from management, not by their achievements in strengthening the status of the institution, cooperatively improving its programs, or maximizing the opportunity for creative work by the individuals the union represents.

---

[1] AAUP Bulletin, Vol. 58 (March 1972), p. 59.

One attribute of trade unionism under collective bargaining that is unfamiliar and uncongenial to the world of academe is the emphasis on exclusivity and compulsion. The goal is to have the union, and only the union, speak for employees. For example, the contracts in existence at St. John's University, SUNY and the University of Rhode Island provide that only the unions and not the individual faculty member have the right to demand and obtain arbitration. At the LIU Brooklyn Center, the union demanded that a faculty member filing a grievance be represented only by the union, not by any other employee group.

The financial health and economic strength of unions depend heavily on universal or near-universal adherence, something that requires compulsion in general and even more so in an academic community with its tradition of individuality. Thus, at both LIU and SUNY, the unions have demanded the "agency shop," an arrangement under which faculty members are <u>required</u> to pay union dues as a condition of continued employment. Perhaps the most striking illustration of the tendency towards compulsion can be found in this notice distributed by the union that called a faculty strike at San Francisco State College:

> Violating our picket line will be interpreted to mean that you have chosen to be with the Trustees and against us. Despite the many issues the A.F.T. has presented to the Trustees, in a strike situation with jobs at stake, your options become simplified and deep. You will not have the luxury of nice distinctions or Byzantine excuses. An ancient distinction will be invoked with all its emotional connotations--friend versus enemy. He who observes our picket line is a friend.

Moreover, unionization--under either of the two options being offered to you--means that you will sacrifice some degree of freedom of action to people from without the University community, for local unions are bound in various ways by the decisions and rules of the national organizations with which they are affiliated. Affiliation is not a one-way street. At the very least, the tactics used in collective bargaining negotiations will be influenced by the presence of attorneys and other staff assistance provided by the national offices (for which, of course, your dues will be expected to pay).

You may believe that our union will be different, that it will not seek exclusivity or employ compulsion and that it will be sturdily independent of the parent organizations. That is not the historical experience; I cannot believe that thoughtful men and women will reject the lessons of history and rely instead on pious hopes.

Under collective bargaining, unions are unions and management is management. I believe that collective bargaining will convert our relaxed, sometimes informal and generally pluralistic professional and academic groupings into the rigid, formal and monolithic structure that is characteristic of trade unions, and that it will also convert a relaxed and rather informal administration that does not see itself as wholly separate from the faculty and professional librarians (after all, most deans at this University actually teach courses, write books and give papers) into a remote and formal management. Managements that operate under collective bargaining agreements, including those in higher education, necessarily worry about their prerogatives and are loath to bend contractual provisions to adjust for individual needs and circumstances lest they establish legal precedents that will be of general application.

I think it is fair to characterize the constitutional arrangements that exist at New York University as being analogous to those provided by the United States Constitution. The Constitution assigns specified powers to the Federal government; state constitutions and the Bill of Rights spell out the limited powers of state governments; and the Tenth Amendment explicitly reserves to the people all powers not assigned to one or another of the levels of government by written constitutional provision. Our own constitution--the Bylaws--explicitly assigns a range of responsibilities to the Trustees (many of which have been delegated, de facto or de jure, to the President and the University Senate), others to the President, still others to the Senate and the Faculty Council, and a few to deans and department chairmen. All responsibilities not so assigned--and the residual responsibilities include virtually everything calling for exercise of professional judgment--lie with the various faculties as entities or with us individually as teachers, researchers and professional librarians. Moreover, exercise of many of the responsibilities formally assigned to the "higher" levels of administration in practice amounts to ratification of the decisions taken within the academic units by academicians.

The typical union contract turns this system on its head: all rights and powers not otherwise specified lie with the "management." Permit me to cite a few examples:

At the New Jersey state colleges, the labor agreement sets out a lengthy management rights "article" providing among other things that the authority of the trustees may be exercised without restriction unless specifically modified by the agreement, including the trustees' authority to promulgate and enforce rules and regulations governing the conduct and activities of employees not inconsistent with the agreement (Article XII). Moreover, the agreement incorporates a waiver provision which provides that the agreement is "the entire understanding of the parties and in all matters which were or could have been the subject of negotiations" and exempts any further compulsions to negotiate on any other matter "Whether or not covered by this Agreement and whether or not within the knowledge or contemplation of either or both of the parties" at the time of the agreement (Article XVIII).

At LIU, the contract now specifies, among other things, that: "Nothing in this Agreement shall derogate from or impair any power, right or duty heretofore possessed by the Board or by the Administration except where such right, power or duty is limited by this contract" (Article XXX).

At Pratt, the contract contains the following clause on administration rights: "All the rights, powers, discretion, authority and prerogatives possessed by the Institute prior to the execution of this Agreement, whether exercised or not, are retained by and are to remain exclusive with the Institute, except as expressly limited herein."

You may hope and trust that this posture of management rigidity will not become the case at New York University, whatever the experience with collective bargaining at lesser institutions. However, collective bargaining is inherently an adversary proceeding, and adversary proceedings do not promote flexibility and good fellowship.

Another notion that seems to have some currency is that unionization of faculty and professional librarians is inevitable, "the wave of the future," and that we ought to gracefully and quickly accede to the inevitable. A corollary is that, unionization being inevitable even if undesirable, you ought to treat

this election as one in which you must choose the lesser of two evils. The inevitability notion, I believe, is based upon a misreading of the record and the assumption that all institutions of higher education are alike. They surely are not; there are persistent and important differences in goals, scope of program, quality, governance and mores, all of which bear upon both the desirability and likelihood of unionization.

It is true that a very large number of two-year colleges have become unionized in recent years, but I think all of you will agree that their experience is hardly relevant to this University. In the Appendix to this paper, I present the results of collective bargaining elections at four-year colleges and universities (including multi-campus systems like CUNY and SUNY). I have been able to discover the results of 72 elections that have been held (and decided; there are a few cases in which the results remain in dispute) up to this time. The summary numbers are as follows:

	Public institutions	Private institutions
Elections held	31	41
Collective bargaining agent chosen	29	29
Collective bargaining rejected	2	12

Several points stand out. First, the unions have been far more successful at public than at private institutions, for obvious reasons: there <u>is</u> an adversary to bargain with, an adversary that for all practical purposes has limitless resources, the state legislature; and if all other public employees are unionized, faculty and librarians rightly worry about their competitive position in the scramble for public funds. Second, only 29 of the 270 private four-year institutions in this country have recognized faculty unions. Third, there is only one institution on the list that ranks with New York University in breadth and stature, Michigan State, and there collective bargaining was rejected by a vote of 1,213 to 718 in October, 1972. Fourth, collective bargaining has been rejected by faculties at private institutions in such "union towns" as New York (Fordham, Pace and Manhattan), Detroit and Seattle.

It is highly likely that faculty unionization will spread in the "lower tiers" of higher education, especially in the public sector. With the exception of CUNY, salary levels tend to be modest in such institutions; governance is frequently rigid and hierarchical, leaving faculty members and librarians with little sense that they can do much to affect their own fates and the character of the institution. It is no accident that the institutions that have been unionized are just the types of places that have most frequently appeared, over the years, on the AAUP list of censured administrations (if we ignore the South, where violations of academic freedom are most common).

However, as the Michigan State election shows, unionization is by no means "the wave of the future" at high-quality universities, where salaries are more reasonable and where governance is far more democratic. Indeed, my guess is that, if you choose unionization, New York University will prove to be a sport among the great universities of this country. That people at this University are not desperate to be unionized is surely indicated by the rejection of collective bargaining by the University's clerical employees in 1971. One suspects that your secretaries' views are not all that different from your colleagues'.

A final misconception that needs to be laid to rest is the view that a militant union cannot possibly harm your own economic interests, no matter what the consequences to the University as an institution. I have heard the argument that the most damaging possible confrontation under collective bargaining, say, a faculty strike in early September, really does not threaten faculty members, since at worst, this University will be absorbed into the CUNY system, with appointments for all and higher salaries to boot. I hasten to say that I do not believe that either the AAUP or the UFCT have any intention whatever of threatening the existence of the University, nor that any responsible group would ever seek a strike; the commitment of this University's faculty and librarians to our students, each other and the institution was repeatedly demonstrated during the various troubles in the 1968-1970 period, when many of you made extraordinary efforts to continue our instructional programs.

Nonetheless, there are people who appear to believe that CUNY is waiting with open arms to absorb us. This is far from the truth. CUNY's expansion plans are specified in its Master Plan, a legal document amendments to which must be approved by the Board of Higher Education, the Regents and the Governor. The CUNY Master Plan does <u>not</u> provide for further large-scale

expansion of faculty and staff in the form of creation of new academic units. The increase in enrollments at existing units is expected to taper off, thus calling for only modest faculty expansion. It is true that CUNY's physical plant is grossly inadequate and our plant would be a welcome find for CUNY; it is also probably true that our self-contained professional schools, like Law and Medicine, might find a warm welcome in either the City or State systems. But it is a fantasy to believe that the entire University and all its people would be absorbed, lock, stock and barrel into CUNY. The taxpayers of this city and state and their representatives do not rank us so high among their priorities as to make it sensible to neglect our own concern for self-preservation. The unhappy political history of our School of Engineering is a cautionary tale.

I should close by indicating that your comments are welcome and that they will affect the content of my subsequent essays. Do take this election seriously, for it may be the most important personal choice you will be making for years to come.

APPENDIX

RESULTS OF COLLECTIVE BARGAINING ELECTIONS AT FOUR-YEAR COLLEGES AND UNIVERSITIES

	Public Institutions	Private Institutions
Collective bargaining rejected	Michigan State U. N. Michigan U.	Fordham U. Pace U. Manhattan C. Detroit U. Seattle U. Baldwin-Wallace C. Jacksonville U. Philadelphia C. of Art Lawrence Inst. of Tech. Tusculum C. Villa Maria C. Seton Hill C.
AAUP selected	U. of Delaware Oakland U. Wayne State U. C. of Medicine and Dentistry, N.J. Rutgers U. of Rhode Island	Adelphi I. Hofstra U. Bard C. Dowling C. N.Y. Institute of Tech. Polytechnic Inst.of Blyn. St. John's U. Ashland C. Temple U. Regis C. Lincoln U. U. of Bridgeport Rider C. Robert Morris C.
AFT (or affiliate) selected	Boston State C. Lowell State C. Mass C. of Art SE Mass. U. Worcester State C. Rhode Island C. U.S. Merchant Marine Academy U. of Hawaii Western Conn. State C. N.J. state colleges	Brooklyn Center, LIU Pratt Institute Bryant C. Layton School of Art Moore C. of Art Taylor Business Inst.

	Public Institutions	Private Institutions
NEA (or affiliate) selected	Fitchburg State C. North Adams State C. Salem State C. Central Michigan U. Ferris State C. Saginaw Valley C. Nebraska state colleges CUNY SUNY Westfield State C. Youngstown State U. Pa. state colleges	Monmouth C. Detroit C. of Business U. of Dubuque Loretto Heights C. Roger Williams C. C. of Pharmaceutical Studies
Independent groups selected	Newark C. of Engineering	Fordham Law School U. of Scranton St. John's U. Law School

Note: U = University; C = College

New York University
Interdepartmental Communication

October 22, 1973

To: Members of the Full-time Faculty and Librarians

From: Dick Netzer

Subject: Issues in the Collective Bargaining Election, II

This essay will address what can be described as the economic issues in this election: the effect, if any, of institution of collective bargaining on salaries, fringe benefits and "working conditions" in the sense that term is conventionally used in the industrial type of situation to which the Federal labor relations laws are attuned.

In essence, I conclude the following. First, it is entirely possible that some individuals may fare better under collective bargaining than they will under the present set of relationships. Second, collective bargaining cannot conceivably improve the economic status of faculty and librarians as a group, since collective bargaining does not generate additional funds for the University (and, under some circumstances that are not entirely implausible, could reduce the University's financial resources). Third, that being the case, if collective bargaining does make a few of you better off in an economic sense, it can do so only by making others of you worse off; that is, the process will amount to what economists style an "income transfer" among members of the universe of faculty and librarians. It may be that collective bargaining will make no difference whatever in your economic well-being, individually or as a group; indeed, I think that this is the best outcome that can be expected. If so, then of course there must be powerful non-economic arguments for making so major a change in our internal arrangements; I will address those arguments in the next essay in this series.

No one can, or should, argue that the economic status of the University's faculty and professional librarians is ideal. Ideally, average compensation would be considerably higher, given the relative professional standing of our people (vis-a-vis CUNY for example) and given, too, the high prices and taxes that characterize New York. However, it is difficult to see how unionization could possibly have any positive effect on librarian and faculty compensation. As the financial crisis has made all too clear, New York University competes for funds in a very difficult environment.

HE 004 865

Three-fourths of the funds available to meet "educational and general" expenses comes from student fees.[1] We compete for students with heavily-subsidized low-tuition public institutions, on the one hand, and much more heavily endowed private colleges and universities, on the other. We can neither increase tuition nor expand the size of the student body at will; indeed, to keep our student body at its present size requires that we maximize our attractiveness to potential students by maintaining (and improving) quality and by innovative educational programs. It may be that unionization will not hurt in this regard (although I intend to argue in a subsequent essay that unionization could lead to a loss in flexibility and freedom of individual and departmental initiative that, in turn, would harm us educationally), but it surely will not help.

This applies as well to the University's other sources of income. Roughly one-tenth of the funds for "educational and general" expenses is attributable to private philanthropy, past and present: income from endowment, income on other restricted funds, current gifts and grants. Here, too, it is possible to hypothesize circumstances under which unionization would hinder private fund-raising, but it is not possible to write a plausible scenario in which unionization would help. Another tenth of the funds come from government sources, in the form of the State appropriations under the Bundy formula and for the College of Dentistry and the recovery (largely from the Federal government) of indirect expenses on sponsored programs. The University has worked very hard and successfully for State assistance; the energy and resourcefulness devoted to those efforts will not be increased solely by the fact of unionization. As individual scholars, we all pursue funded research opportunities vigorously; collective bargaining will not make us better scholars or more persuasive proposal-writers.

You may agree with all this, but argue that collective bargaining could improve the economic status of faculty and librarians by resulting in a different allocation of the admittedly limited and inadequate funds, among different types of

---

[1] "Educational and general" expenses exclude the direct costs of sponsored research and training activities, the cost of auxiliary activities, expenses for real estate investment properties, student aid, and debt retirement. In other words, they include the direct costs of instruction and non-sponsored research and all the related and supporting activities connected with instruction and research. All the data in this essay refer to the University exclusive of the Medical Center.

expenditure. It is worth looking at the record, by examining the change in "educational and general" expense from 1961-62 to the 1971-72 academic year (using the latter because it is the latest one for which there is an audited financial report). During the ten years, total "educational and general" expenses doubled, from $39 million to $80 million. Of the overall increase of $41 million:

-- the expense categories dominated by full-time faculty compensation, instruction and research (other than sponsored activities), increased by	$19.9 million
-- library expenses increased by (this represented an increase of nearly 300 percent, before the opening of Bobst)	2.8 million
-- other professional and academic expense categories (like extension services and the Dental Clinic), categories involving some full-time faculty but mostly part-time faculty and non-faculty professionals, increased by	3.2 million
-- student services increased by	2.6 million
-- operation and maintenance of plant and all of the general administrative and supporting service costs increased by (more than half of this is attributable to plant operating costs and interest on debt incurred to buy and build additional academic buildings)	12.7 million

There is only one way the University could have substantially changed the allocation of funds in favor of faculty and librarian compensation: by not improving the physical plant. But that course would have preserved the grossly inadequate library, faculty office and classroom space conditions that prevailed in 1961. I cannot believe that you would consider the physical environment of 1961 -- and the individual working conditions that it meant -- tolerable today. In any event, the University is no longer engaged in large-scale building and the budget projections for the years immediately ahead indicate that

plant operations will absorb an even smaller fraction of increased expenditure than in the decade covered by the data above.

Moreover, the allocation of funds that did obtain in that decade permitted substantial increases in faculty compensation.[2] I have prepared some charts that compare trends in and levels of faculty compensation at New York University with those in all private independent (not church-related) universities and all public universities, the classes of institutions that seem most nearly comparable to us. The first two charts compare trends over the ten years to 1973-74, in both dollar increase and percentage increase terms. In both comparisons, the increases at this University show up as substantially greater, for all professorial ranks, than those at other universities as a group.

This occurred despite the salary freeze in 1972-73. It must be remembered that the past few years have been difficult ones financially for most institutions. Unhappily, salary increases have been small ones in many places and salary freezes, for one, two or three years, have occurred in a fair number of universities. The increases at CUNY have been the exception, rather than the rule. You should also recall the relatively large salary increases that occurred in 1970-71 and 1971-72, in the face of a rapidly deteriorating financial situation at this University. Those increases represented a deliberate policy choice, initiated by the University-wide Commission on Effective Utilization of Resources and accepted by the administration and Trustees. This choice was a continuation of the policy initiated in the early 1960's: a recognition that this University has no reason for being, save as a high-quality institution, and that this in turn requires a continuing effort to increase salary levels, to retain and attract able people.

The third chart in the series shows comparative professorial compensation levels at present. A decade earlier, compensation levels here in fact were well below those of other private independent universities and roughly on a par with those at public universities. The greater dollar and percentage increases here have brought compensation levels

---

[2] The data to be discussed at this point are based on AAUP faculty compensation surveys. Unfortunately, there are not data of similar comprehensiveness that show librarians' salary and compensation trends.

up to the averages for private universities (we are higher than they are for associate and assistant professors and about 1 percent below them for professors) and well above the public university averages.

These comparisons, like all comparisons based on the AAUP surveys, are of total compensation, that is, salaries plus fringe benefits. Focussing on total compensation reflects recognition of two facts: first, salaries and fringe benefits are financed from a single pool of funds and a university that expends more for one can afford less of the other; and second, both salaries and fringe benefits contribute to the individual's well-being. In some cases, the trade-off is very obvious. For example, if the University paid the entire TIAA contribution, that would be exactly equal, for both the University and for each of you, to a salary increase (after income taxes) of 5 percent less $120.

Now the fact is that salaries are a higher proportion of total compensation at this University than at many other institutions. On the average, salaries are higher here, but fringe benefits lower, than at the average private university. Collective bargaining could affect the salary versus fringe benefit mix. Indeed, this may be likely, in view of the general experience with collective bargaining over the years. By concentrating on fringe benefits, unions are able to lengthen the list of concessions wrested from management. That is, there are more concessions won, per dollar of cost to the firm or institution, than would be the case if salaries were the only subject of bargaining.

New York University's past policy of increasing compensation via straight salary increases rather than fringe benefits has been a deliberate one, with some real advantages to us as individuals. First, as academic economists argue, a person's welfare is increased more by giving him cash outright, to spend as he or she sees fit, than by giving him specified benefits of equivalent dollar value, some of which he may not value highly. Second, most fringe benefits are highly uneven in their incidence: not everyone in fact benefits, even in the long run. For example consider some of the fringe benefits that exist elsewhere and have been proposed, from time to time, for adoption here. One proposal is to provide outright cash subsidies for faculty

and staff housing, rather than the present no-cash-subsidy housing policy. As long as substantial numbers of people choose not to live in University housing, this will be a highly selective fringe benefit. An even more selective policy would be to expand the coverage of major medical insurance (for example, to cover psychotherapy) or to pay part of the tuition of faculty children attending other colleges (the latter policy, moreover, would favor older and higher-ranked people at the expense of the younger and presumably less well-paid).

It is worth outlining the present fringe benefit policies, to make all this somewhat more clear. First, the University provides all the costless benefits it can, such as passing through the real property tax exemption on University-owned housing occupied by NYU people, or the reduction in life insurance premiums that group, rather than individual, policies afford. Second, it provides, at University expense, generally available fringe benefits that are quite low in cost when done on a University-wide basis, like major medical insurance. Third, it is much more guarded about generalized fringe benefits that are inherently high in cost and directly substitute for salary increases. Finally, it is very guarded indeed about high-cost fringe benefits from which only a small number of people can benefit.

The point is that, were collective bargaining to expand the range of fringe benefits, it would do so at the expense of salary increases. Some of you would gain in the process; others would lose. The economist in me says that the losses must exceed the gains in theory. Theory aside, the result is a change in the distribution of economic benefits, not a net increase.

Collective bargaining could also result in a change in the distribution of salary increases among individuals. Indeed, this is sometimes advanced as an argument for collective bargaining: the proposition that salary scales will be more uniform among individuals under collective bargaining than now is the case. Again, given that financial resources are limited, equalizing some salaries upward requires that other salaries be equalized downward, compared to the salary pattern that would obtain in the absence of a collective bargaining agreement calling for uniformity of salaries within ranks; there must be both winners and losers. Moreover, it must be recognized

that contractual uniformity means the abandonment of individual merit as a basis for salary increases.

The CUNY salary system illustrates this. Merit may have something to do with promotion, but within ranks, there is no consideration of individual merit in salary determination. The LIU contract, among others, is explicit on this:

> "Employer and Employee agree that as a principle, salary of faculty members should be based on a uniform published schedule with advancement in annual mandatory steps. There shall be no increment for 'merit,' nor shall a faculty member be advanced to an annual step to which his years in rank do not entitle him to be advanced." (Article XV).

The implications of abandonment of considerations of individual merit and performance for academic excellence are obvious. Indeed, Dr. Israel Kugler, a leading figure in the UFCT, has characterized the spread of faculty unionization as part of the "death agony of educational elitism," something that may be welcomed at New York City Community College but not at this University. Professor Donald Wollett (in the Wisconsin Law Review, 1971, p.18) put the issue succinctly:

> "Excellence in faculty performance -- individual efforts that go beyond norms or deviate from standard practice -- may, in a system of collective negotiations, be discouraged or repressed in order to gain uniformity in performance and equality in rewards. Mechanical or quantitative criteria, e.g., equal hours of work plus equal seniority plus equal credits toward an advanced degree means equal pay, may be used to encourage such uniformity."

Salaries and fringe benefits are not the only elements of the "terms and conditions of employment" about which collective bargaining occurs. We are all concerned with everyday working conditions like office space, teaching loads and secretarial assistance. None of these conditions are ideal, but they have been hugely improved in recent years and are as good as, or much better than, those in many other institutions. More importantly, with limited resources, there must be trade-offs between working conditions, salaries and fringe benefits. The fact is that, in

a fair proportion of the institutions with collective bargaining arrangements, working conditions are very poor indeed, and trade-offs do occur. CUNY is a prime example of an institution in which high salaries are offset by working conditions that are conducive to neither effective teaching nor scholarship.

Moreover, collective bargaining can produce rigidity and unwelcome uniformity in workloads. Professor Ralph S. Brown, Jr. (in the Michigan Law Review, Vol.67, p.1075) has suggested one likely course of events:

> "Once a bargaining agent has the weight of statutory certification behind it, a familiar process comes into play. First, the matter of salaries is linked to the matter of workload; workbad is then related directly to class size, class size to range of offerings, and range of offerings to curricular policy. Dispute over class size may also lead to bargaining over admissions policies. This transmutation of academic policy into employment terms is not inevitable, but it is quite likely to occur."

In practice, faculty labor contracts often contain provisions of university-wide applicability on workload, class size, teaching schedules, etc. These provisions may eliminate whatever differences might have existed between the various departments and schools. This is true even where the institution contains a wide variety of schools, both graduate and undergraduate, professional and non-professional. The LIU and CUNY contracts are cases in point. The LIU contract goes very far indeed. It not only provides a required teaching load applicable to all full-time faculty members but also specifically defines how such activities as thesis supervision and chairing dissertation committees are to be measured; it even specifies the minimum number of office hours for each faculty member.

Another aspect of the "terms and conditions of employment" is the handling of grievances. With the changes adopted last spring, New York University now has fully-elaborated machinery for dealing with faculty grievances. The essence of our procedures is that they involve review by one's peers, that is, by faculty committees. Collective bargaining agreements typically provide another layer of grievance machinery, adjudication by external arbitrators. It is difficult to see how the quality of academic life and intra-faculty relationships can be other than hurt by

lessening the decisive role that peer review now plays in our grievance procedures.

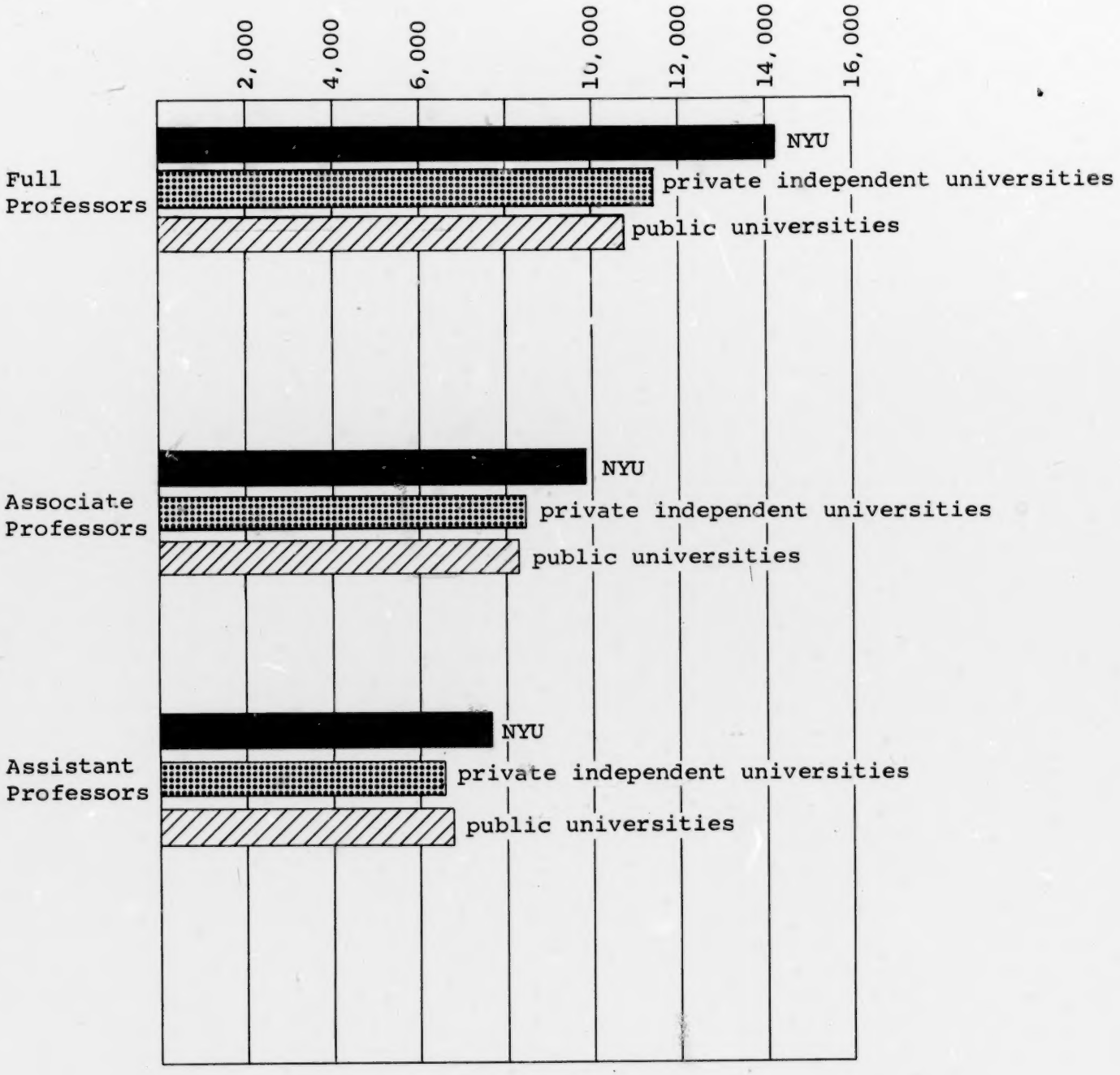
Peer review is also crucial at present in the most important of all non-salary concerns, job security (that is, reappointment and tenure) and promotion. Our procedures now are very explicit in this: faculty committees must make the initial findings on reappointment, tenure and promotion, including a required annual review of all non-tenured faculty members. Department chairmen and deans need not concur in the recommendations, but if they dissent, they must state their reasons in writing. In practice, the initial faculty committee recommendation is conclusive, in the overwhelming majority of cases. Moreover, there is appellate machinery, in the form of school-wide committees and the grievance committee of the Faculty Council.

Collective bargaining will not strengthen the role of one's peers in all this, but rather the opposite. Contractual agreements may specify the distribution of ranks, thus limiting promotion possibilities (as exists at CUNY), or limit the number of tenure slots (as has been proposed at CUNY). In addition, there are the provisions for external arbitration of tenure and promotion disputes. Some of you may believe that this affords an additional element of individual job security, whatever the effect on collegiality. It could work in the opposite direction: if many tenure and promotion decisions ultimately are to be made by arbitrators, strategic behavior might call for faculty committees, chairmen and deans to say no more often, in the hope that they will be upheld by arbitrators at least occasionally. In any event, arbitrators (like the courts) are hardly the best judges of academic quality, which is our primary concern as scholars and professionals.

In sum, I believe that the evidence suggests that collective bargaining cannot improve the "terms and conditions of employment" for the faculty and librarians taken as a whole. It may improve things for some people, but only at the expense of others and at the expense of the quality of life here and of our efforts to achieve academic excellence, efforts that are essential if the University is to flourish in an environment that is by no means stacked in our favor.

DOLLAR INCREASES IN COMPENSATION, BY RANK, 1963-64 to 1973-74

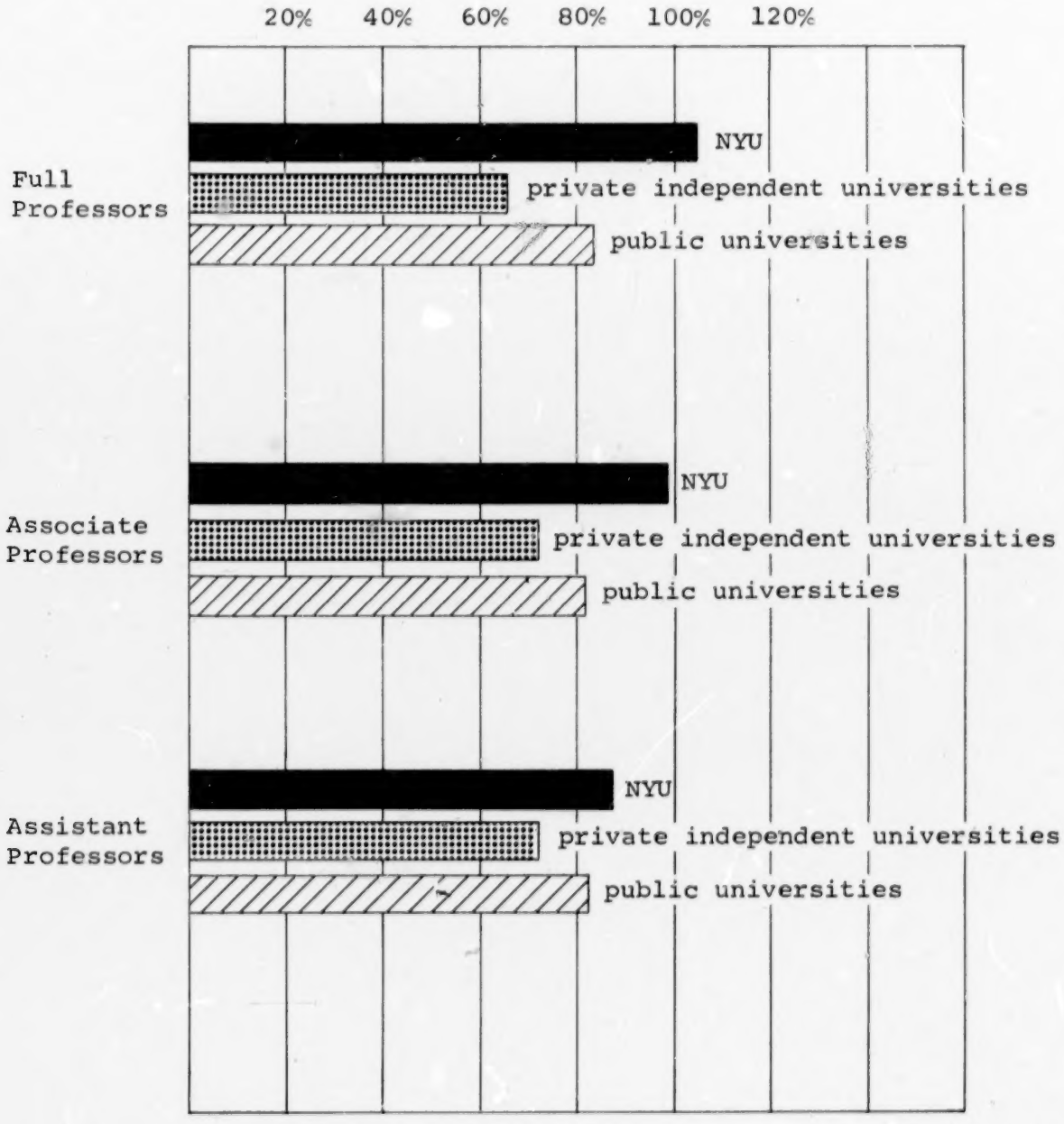
NYU COMPARED WITH OTHER UNIVERSITIES



Source: AAUP, published and unpublished data; estimated for 1973-74.

PERCENT INCREASES IN COMPENSATION, BY RANK, 1963-64 to 1973-74

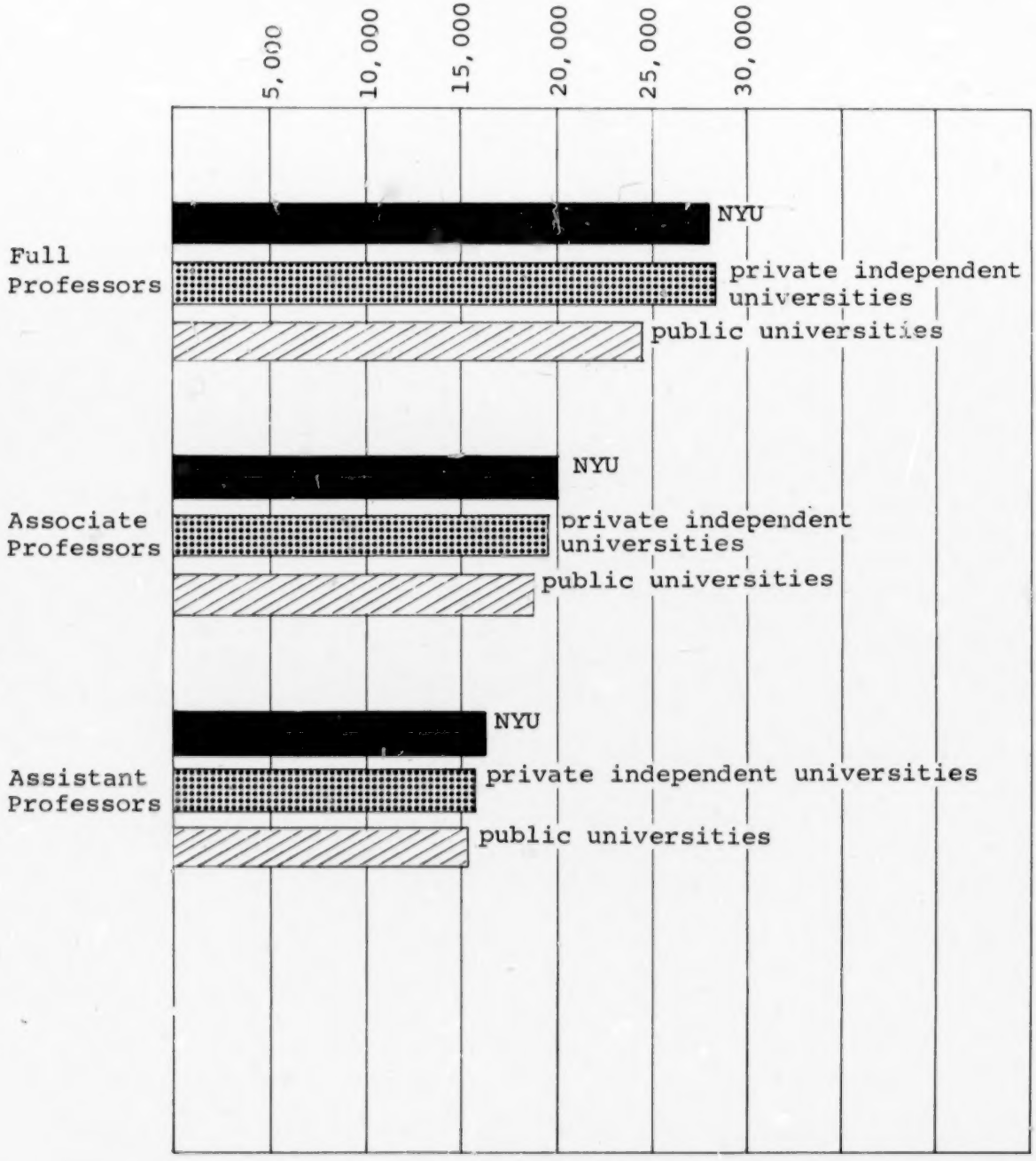
NYU COMPARED WITH OTHER UNIVERSITIES



Source: AAUP, published and unpublished data; estimated for 1973-74.

AVERAGE COMPENSATION LEVELS, BY RANK, 1973-74

NYU COMPARED WITH OTHER UNIVERSITIES



Source: AAUP, published and unpublished data; estimated for 1973-74.

New York University

Interdepartmental Communication

November 1, 1973

To: Members of the Full-time Faculty and Librarians

From: Dick Netzer

Subject: Issues in the Collective Bargaining Election, III

The subject of this essay is the role of the faculty and librarians in decision-making at this University and how this role might be affected by formal collective bargaining. In my previous essay, the one dated October 22, I wrote about what is perhaps the most important such decision-making, since it affects one's own future as well as the determination of who one's long-term colleagues will be, decisions on tenure and promotion. Advocates of unionization surely do not intend unionization to weaken the role of faculty and librarians in tenure and promotion decisions. Nonetheless, as I argued in the October 22 essay, the insertion of external arbitration into the process, as is provided in nearly all union contracts at four-year colleges and universities, does just that.

In this essay, I discuss other kinds of decisons, the decisions that in combination comprise governance in the broadest sense: decisions on University, school-wide and departmental policy of the type for which the term governance is often reserved, as well as the everyday decisions on educational and intellectual questions that take place in our offices, classrooms and departmental meeting rooms. The latter may be the more important in the long run, since they determine the content and tone of our professional life. Here again, the advocates of unionization surely expect that collective bargaining will expand the role of faculty and librarians. I believe that both logic and the experience with collective bargaining elsewhere strongly indicate that collective bargaining hurts, rather than helps, in this regard.

HE 004 865

To outline our present governance arrangements to you is to strike the pose of a professor lecturing to students. I apologize for this, but I think it important to emphasize to those of you who have not served as elected faculty and librarian representatives that our constitutional arrangements provide not an equal role, but a dominant role, for you in the determination of educational policy.

For at least five years, the University Senate -- in fact, not just in theory -- has been the arbiter of all educational issues that spill over the boundaries of individual schools and colleges. The definition of the Senate's jurisdiction has been broad indeed, ranging from Commencement arrangements and the calendar through the creation of new programs (like the University Without Walls) or the reorganization of Arts and Science. There simply have been no educational policy issues (other than those confined to separate schools) that have not been considered by the Senate, or by the appropriate constituent of the Senate, like the Faculty Council or one of the Senate committees, before action by administrators or the Trustees. Moreover, the Senate's role has not been a passive one, approving or disapproving policies proposed to it by the administration. Instead, the Senate has initiated discussion and action on a whole range of questions and has been responsible for starting the far-ranging self-studies we've been engaged in recently.

Half the membership of the Senate is comprised of elected faculty and librarian members. Moreover, in practice, your representatives in the Senate are more influential than their numbers suggest, for they have a special claim to legitimacy. They represent a real constituency and are chosen by formal election processes that are marked by high voter participation rates. The deans in the University Senate have a constituency only to the extent that they reflect the concerns of their faculties. Because of low voting turn-outs and a high rate of turnover, the student senators (through no fault of their own) are seen as something less than fully representative. Thus, in the acrimonious years of the recent past, like 1969-70, the contentious debates between hard-line deans (like me) and seemingly radical student senators on most occasions were efforts to persuade the faculty senators of our views; the faculty senators were seen as the "real

University," as well as the voting majority.

The faculty-dominated Senate has not been timid about claiming jurisdiction. Indeed, there have been frequent challenges, on the floor of the Senate, to its discussions and actions on the grounds that they impinge on the prerogatives of the separate faculties. The Bylaws are quite explicit on this: educational standards and the content of educational programs (other than inter-school programs) are determined by the faculties of the several schools and colleges, and by no one else.[1] As you all know, this responsibility is taken seriously indeed. Anyone who has been a sponsor of a proposed educational change knows very well that the principal obstacle one confronts is the searching criticisms of one's colleagues, in elected curriculum or educational policy committees, on the floor of stated faculty meetings, or in departmental meetings and departmental committees.

All the separate faculties have elaborate committee structures, usually with elected memberships and, in the larger faculties, similar committee structures are reproduced within the separate departments or divisions. During Dean Stone's administration, similar arrangements were developed in the University Library system. People being people, there always will be instances of despotic chairmen, even deans (although we all know that deans really are kindly fellows), supine committees and lethargic individuals, with the results something less than participatory democracy in those instances. However, the constitutional rules and machinery make it easy to assert faculty and librarian prerogatives, even in the presence of would-be despots.

---

[1] New programs must be registered with the State Education Department, and that process requires a central University approval. In the case of graduate programs (most wholly new programs here are graduate or professional ones), that approval is given by the Graduate Commission, a body dominated by your elected representatives.

No doubt a fair number of you who have not been directly involved in the work of the Senate or other inter-school bodies remain skeptical about the reality of the central role of the faculty in decision-making at the University and believe that, whatever the formal structure of University governance, the critical decisions are made by the administration or the Trustees when the chips are down.

The chips have been down during the past four years, as the University's financial position worsened, and decisions that are critical indeed have been made. There can be no more critical decision than the decision to discontinue a school, which we have been compelled to face in the cases of the Graduate School of Social Work and the School of Engineering and Science. In the case of Social Work, the initial decision to discontinue the School, in which there was faculty participation through the University Committee on the Financial Emergency, was reversed, on the basis of other forms of faculty participation in governance.

The decision to postpone the final decision to permit the School to mount the fund-raising drive that proved so successful was a result of a resolution passed at a special meeting of the University Senate on May 25, 1972. That resolution was narrowly passed, and most of the administrators who are members of the Senate spoke and voted against it; faculty votes carried the resolution. In this most crucial of matters, the administration and Trustees felt bound to implement the letter and spirit of the resolution, and not to treat the Senate action as an inconvenient formality. The continuation of the Graduate School of Social Work is then a direct consequence of the reality of the faculty role in the decision-making at New York University.

Although both the formal arrangements and the outcome differed, the faculty was similarly central in regard to Engineering. The decision to discontinue the School was made by the Legislature, in its directive to merge our School into the Polytechnic Institute of Brooklyn. In the negotiations that followed, in the summer of 1972,

the University insisted that no merger could take place unless the terms were approved by a majority of the faculty of our School. In August 1972, that faculty rejected the terms decisively, and, as far as this University was concerned, the merger was off. Meanwhile, the Engineering faculty had set up a committee charged with the responsibility of devising a plan for continuation of the School at Washington Square, under conditions that made the School financially viable. Such a plan was accepted, with some modifications, by the administration. However, the State Education Department disapproved this as inconsistent with the legislative directive. Negotiations with Brooklyn Poly were then renewed, and concluded with terms that were far better for our Engineering faculty, which overwhelmingly accepted them before the end of the last academic year. All of us regret the Legislature's action, but within the limited room for maneuver permitted by the legislature, faculty action was decisive, when the chips were down.

Under the usual provisions of contracts negotiated through collective bargaining with trade unions, the decision to discontinue a division or other operations remains a management prerogative. True, there may be contract provisions covering severance pay and the like, but the likelihood that an initial management decision to discontinue would be reversed on the basis of votes by employee representatives is nil. Here then is a very real, and terribly important, illustration of why I believe that collective bargaining would reduce, rather than enhance, the faculty and librarian role in governance of this University.

Professor Graham Hughes, of the School of Law, in a recent UFCT statement, challenges the reality of participation in governance and shared responsibility by citing five recent decisions of great import: the sale of the Bronx campus; the discontinuance of the School of Engineering; the 1972-73 salary freeze; the reduction in faculty numbers (presumably, in the last two years); and the

reduction in the mandatory retirement age. The first two decisions were a result of action by the State legislature, not independent decisions by anyone at this University. It should be remembered that the original State proposal for the Bronx campus, made in February 1972, was for its conversion into a unit of the State University, under terms that appeared to protect virtually all Heights faculty members; this seemed a reasonable basis for negotiations in the light of the extremity of the University's fiscal crisis. Moreover, the University Senate did debate and approve the sale, in May 1972.

Nor was faculty participation absent in the other three decisions cited by Professor Hughes. The salary freeze was reluctantly accepted, in the spring of 1972, by both the Senate Budget Policies Committee and the Faculty Council, as the least bad among a group of hateful alternatives confronting us at that time. The reduction in faculty numbers began in response to the recommendations of the Commission on Effective Utilization of Resources in 1970-71, and was a concomittant of the substantial salary increases then proposed and implemented. The Task Force on the Financial Emergency in May 1972 called for further reductions; the Task Force report was endorsed by the Committee on the Financial Emergency (six of whose 15 members were faculty) and by the University Senate. The reduction in the mandatory retirement age was approved by the Faculty Council and the University Senate, as required by the Bylaws. All those steps were unhappy ones, but your representatives did participate in these unwelcome decisons; they were not imposed by administrative fiat.[2]

---

[2]You should recall just how bad things were: there was a real question whether the University would be able to open in September 1972. In that environment, all sorts of drastic proposals were being considered (some of them made by faculty members who looked over the edge of the precipice and recoiled from what they saw), including large percentage salary cuts and suspension of the University's TIAA contributions. The bodies I mention in this paragraph examined such proposals, and rejected them. The responsibility for the steps that in fact were taken was very much a shared responsibility.

You may respond to all of this by arguing, "Yes, that is all well and good, but I as an individual really have little impact on decisions at the University, school or departmental level, because I must act through representatives who represent my interests imperfectly at best." But that always will be the case in a large organization, where direct, or "town-meeting," democracy is impracticable much of the time. At best, trade unions are a form of representative democracy, with the crucial decisions made in negotiating sessions between elected union representatives and designated management representatives.

Moreover, there are three factors which make union representation less adequate than our present forms. First, union representatives and union policies are decided by union members, not by all faculty members and librarians, and those representatives and policies speak for non-members, as well. In other words, union membership, dues and attendance at meetings are prices you must pay to have any effective voice. Second, the policies and operating practices of the national organization with which a local union is affiliated do have an impact on what the local union does, and your ability to affect the national organization is extremely limited. This may be a minor point, but it is surely not one in favor of collective bargaining. Third, union representation has the characteristic of exclusivity. Under collective bargaining, managements cannot be readily accessible to individuals or groups outside the formal negotiating channels. This loss of access may be especially important to relatively small and specialized groups among you, whose numbers are insufficient to carry union elections.

Proponents of unionization sometimes assert that collective bargaining will not supplant forms of representative governance but instead will add a new element of representation. The proposition is that the powers and prerogatives of the Senate, the several faculties and departmental bodies will not be diminished by collective bargaining. In an earlier paragraph, I argued that this would not be the case with regard to fundamental decisions like the continued existence of a school, and indeed that such decisions are likely to be removed entirely from any faculty participation under collective bargaining.

Surely, all the responsibilities of the Faculty Council as the faculty personnel committee of the Senate would be transferred to the union, as the sole representative of the "labor" side in negotiations about economic questions. Likewise, the Senate would be relieved of any authority to pass on educational policy questions that (a) have a budgetary impact and (b) affect "the terms and conditions of employment," the "management" side reserving to itself all budgetary powers and the "labor" side bargaining collectively on economic issues. A large proportion of educational policy questions meet these criteria, questions as different as calendar reform (which affects University costs and incomes and the work schedule of everyone within the University), restrictions on the type of research contracts that can be accepted, and organizational changes that affect departmental membership. Indeed, it is difficult to imagine just what the Senate could consider, save its own internal structure, under collective bargaining.

A contrary view on this is presented in a remarkable[3] article in the current issue of Academe (October 1973), the AAUP newsletter, on collective bargaining at St. John's University, which began in 1970 (making it the first private university with formal collective bargaining). The first

---

[3] I find the article remarkable in that it shows how far down the road the AAUP has come--as the opponents of AAUP participation in collective bargaining feared--from scholarship and concern with scholarly standards to the unembarrassed biased pleading one would expect in any trade union house organ. The article's sole source for its "objective" description of the veritable love-fest that the advent of collective bargaining has brought to St. John's University is provided by the chairman of the local AAUP chapter.

thing that needs to be said is that St. John's is and was the institution where, in 1965, 21 faculty members were summarily dismissed for having the temerity to challenge an administration with medieval notions of participatory democracy. A reluctant Board of Trustees finally relented and had established a university senate by 1969. Thus, when the collective bargaining election was held, St. John's had only a very new and fragile tradition of faculty governance. The most the article claims is that the union contract does not disturb the new dispensation. Even that claim is less than persuasive, since the article also says that, "A special senate committee has been formed to suggest ways of coordinating the activities of that body with those of the bargaining agent," which indicates that the St. John's Senate does not feel itself unaffected.

The fact is that it is affected, and diminished. For example, the St. John's Senate was barred from considering a proposal for a 4-1-4 calendar recommended by one of its committees, because of conflict with union proposals. The contract at the New Jersey state colleges similarly makes the calendar a subject of collective bargaining, not to be decided otherwise. More generally, the LIU negotiating committee in 1971 stated that its demands were designed to exclude "presently elected officers of the faculty and all of their standing committees from these deliberations and the governmental process" (emphasis added). Active struggles between the local chapters of the AAUP, as the collective bargaining agents, and the university senates are now going on at Temple and Rutgers.

Collective bargaining would also affect the powers of the individual faculties and departments. For example, the freedom to make changes in student course requirements that substantially change the teaching assignments of professors surely would be limited by contractual provisions bearing on the "terms and conditions of employment." Your ability to strike appropriate compromises between what you, as faculties or departments, believe to be educationally appropriate, on the one hand, and the teaching preferences and talents of your colleagues, on the other, would be circumscribed by such provisions.

The very nature of collective bargaining and administration of collective bargaining contracts leads to a shift in decision-making authority away from departments and schools, in the direction of central administration. The contract is negotiated by a "management team" representing the central administration and a "labor team" which surely cannot be large enough to reflect all the diversity among schools and departments that exists at NYU; they would negotiate a contract with uniform provisions binding on all divisions, overriding long-standing differences among them.[4] Administration of the contract must be centralized as well, to avoid inter-departmental or inter-school differences in interpretation and application.

The Board of Higher Education, the statutory governing body of CUNY, put it this way in a recent Statement of Policy on Organization and Governance:

> Despite the efforts of the Board to increase the participation of all groups in University governance, numerous factors have continued the pressure for increased centralization of control, policy and operation of the University. This increased tendency toward centralization has become a counterforce to the individual college's ability to operate autonomously and has increasingly slowed the ability of the University to react calmly, sensibly, and in a forward-looking way.
>
> The advent of collective negotiations, under the Taylor Act, has been a noteworthy legal as well as practical, pressure toward centralization of University responsibilities. Under the law, the collective negotiating agents have exercised their right to deal with the University as a

---

[4]Such differences do not imply that people in one division have a better deal than those in others. Rather, they reflect the fact that we do very different things, resulting in very different mixes of professional responsibilities and obligations. Presumably, the objective under present arrangements is to tailor the mix to the talents and interests of each of us.

> whole. The resulting contracts and structures have tended to make the office of the Chancellor the obvious direct court of appeals. Application of the contracts has also tended to impose uniform and rigid personnel practices across the entire University.

The powers of individual faculty members and librarians are greatest in regard to what I referred (in page 1 of this essay) as "everyday decisions on educational and intellectual questions." What and how you teach, the nature of your research, and the content of your other professional activities are, rightly, the most cherished exercises of individual discretion. It would be unfair to assert that collective bargaining automatically will interfere seriously with your academic and professional discretion. However, the need for uniformity in both the negotiation and administration of collective bargaining contracts tends to lead to rigid and measurable standards, and such standards cannot help having an effect on what you do from day to day.

For example, teaching schedules and assignments now are the result of highly individualized arrangements. The LIU contract, among others, requires highly formal practices with regard to the assignment of graduate courses, changes in teaching schedules, and the maximum number of preparations, and appears to rule out the informal trade-offs that are the general practice now. The Pratt contract calls for the determination of class size by a central administrative officer, with only advisory opinions from the departments (and not necessarily any opinion from the faculty member involved).

Such provisions afford significant obstacles to the initiation of innovative or experimental programs, where individual responsibilities cannot be neatly matched against the uniformly applicable contract clauses. The quality of intellectual life can also be affected by contractual provisions spelling out criteria for promotion. For example, in the CUNY negotiations, a union demand was for alternate criteria that would substitute for the requirement for a

doctorate, "active participation in professional, union and community organizations." One can conceive of situations here in which this would be appropriate, and indeed we do have divisions where the doctorate is by no means an iron-clad prerequisite. But it is hard to imagine that scholars in research-oriented departments would be happy with colleagues retained and promoted largely on the basis of union activities, as a contract might require.

Also, you should consider what could happen to your departmental chairman under a collective bargaining situation. Obviously this is most important to the chairmen (and potential chairmen) among you, but the tone of your everyday life here is affected by whether the chairman's job is that of a high-class clerk or that of a force for intellectual leadership. In a paper describing the experiences with collective bargaining at the University of Rhode Island, Dr. Edward H. Pauley wrote:

> Some chairmen derive job satisfaction from the opportunity to play a leading role in the shaping of a department. Such chairmen, unless they prove to be remarkably resilient, will probably derive less satisfaction from their jobs. They will find their position being transformed more and more into that of department secretary and chief paper shuffler. Administrators can put up with a certain amount of paper shuffling as long as they are able to do something creative. Without that possibility, they are likely to resign and be replaced by chairmen who view their role as strictly representative. We have had a number of resignations already this year.

I conclude that logic and the evidence suggest that collective bargaining requires bilateral and tightly controlled negotiation and administration, not the wide-ranging faculty and librarian participation at all stages and in most decisions, formally, informally, overtly and subtly, that characterizes this University today. The situation

under collective bargaining would be wholly different, not necessarily undemocratic or unrepresentative, but a system of relationships that is explicit, formal and hierarchical -- relationships that exist in most places outside of academe, but that most people in academe have chosen deliberately to avoid, in opting for the academic life.

There is a rather obvious rejoinder to this baleful account of the impact of collective bargaining on governance broadly defined in other institutions and its probable impact here: our contract will be different, for we will learn from the mistakes of others, and besides, this is a better place to begin with. However, the results of a process of adversarial bargaining necessarily are unpredictable. In the face of uncertainty, the scientific method calls for heavy reliance on the available evidence. That evidence is anything but encouraging.

I think it is no accident that your counterparts in the only two universities that are like us in their internal relationships and have had union elections have voted to reject collective bargaining. They so voted at Michigan State last year (as I noted in my first essay), and they did so last Thursday at Syracuse, where the issues were very similar to those you must decide by November 14 and 15.

New York University
Interdepartmental Communication

November 8, 1973

To: Members of the Full-time Faculty and Librarians

From: Dick Netzer

Subject: Issues in the Collective Bargaining Election, IV

The Story Thus Far: In my previous essays, I have argued that the principal question before you in deciding how to vote on November 14-15 is the likely impact of collective bargaining on, first, your economic status, and, second, decision-making within the University at all levels, from classroom to university-wide. I contended (in the October 22 essay) that collective bargaining cannot possibly make all the faculty and librarians, taken together, better off economically; it could lead to some gains for some of you, at the expense of losses for others, chiefly by imposing the civil-service type of salary uniformity which most unions (including faculty unions elsewhere) tend to strive for.

If the economic case for collective bargaining is weak -- or as I believe, non-existent -- then there must be some other strong grounds for holding that unionization will improve things; if not, surely unionization should be rejected, for it is too important a change to be adopted casually. The other grounds usually advanced are that unionization will strengthen faculty and librarian participation in decision-making. In the November 1 essay, I contended that the opposite is true, that collective bargaining could reduce the faculty role in the most important of all policy-decisions (like the dicontinuance of a school) and limit freedom of action at the school, department, classroom and official levels. Moreover, insofar as collective bargaining makes contractual the shared authority that now exists in practice, it is the bargaining agent -- the union -- and not the faculty and librarians as such that exercises power in negotiating and administering the contract.

In this last essay, I want to discuss a few points that some of you have raised in response to the earlier essays and also to consider one point that bothers me. In addition, there is the hortatory peroration that is expected in such documents.

HE 004 865

First, I must clarify the information on comparative compensation levels presented in the October 22 essay. That essay is an example of a time-honored academic error: I assumed that my readers were familiar with the nature of the data and so was far too cryptic in my presentation. The data presented are based on the definitions and classifications prescribed by the national AAUP for the surveys it has conducted annually for some time, the results of which are published in the AAUP Bulletin (the 1972-73 surveys results appear in the summer 1973 issue). Since the last published results are for 1972-73 and since this is 1973-74, I have used unpublished data and estimates to bring the statistics up to date.

The AAUP surveys rightly try to compare comparable institutions. Institutions are classified by type of control -- public, private independent and church-related -- and by level, with distinctions among institutions offering advanced degrees, four-year colleges and two-year colleges. The 1972-73 survey covered 101 public and 46 private independent doctorate-granting universities, and another 237 public and 81 private independent institutions offering post-baccalaureate degrees but few if any doctorates. The data shown in the graphs in my essay are essentially comparisons with doctorate-granting universities.[1)]

The AAUP surveys emphasize total compensation, including fringe benefits, not just salaries. Thus, if you construe the averages in the graphs to reflect base salaries, they will appear to be inordinately high. On the average, salaries are equal to roughly 85 percent of total compensation (the major fringe benefit items in dollar terms, are TIAA and payroll taxes for social security and unemployment insurance).

Even after this correction more than half of you will be earning base salaries that are below the stated averages. This is because the AAUP surveys involve comparisons of arithmetic means (the aggregate payroll within ranks, divided by the number of professors in those ranks) rather than medians (the compensation paid the professor in the middle of the distribution, listing

---

1) Because there have been changes in the AAUP classification system over time, I must make this qualified statement.

all people within the rank by salary, from lowest to highest). Perhaps I can make this clear with a hypothetical distribution of salaries (not total compensation) of nine full professors. The distribution is hypothetical, but not wholly unrealistic.

Professors	1	$20,500
	2	21,000
	3	22,000
	4	22,000
	5	23,000
	6	23,000
	7	25,000
	8	27,500
	9	32,000

The arithmetic mean of this distribution is $24,000, but six of the nine professors earn less than the mean. The median is $23,000, the salary earned by Professor No. 5. The lowest-paid professors are likely to be people who have only recently been advanced to the full professor rank. In computing the arithmetic mean, their salaries have been more than offset by the professors with exceptionally high salaries. There are, in fact, within the University a relatively small number of professors with exceptionally high salaries that so affect the means. In most cases, the exceptionally high salaries occur in the professional schools and/or are for endowed chairs or positions otherwise financed from external funds that cannot be used for other purposes (like levelling-up the salaries of lower-paid faculty members).

More generally, there are differences in salaries among fields (reflecting the presence or absence of non-academic demand for talented people) and, within fields, on the basis of individual merit. One aspect of the latter is how long merit has been recognized by advancement in rank. This is the general situation in all the first-rate universities in this country; uniformity among fields and the absence of individual merit as a basis for salary is common only in the lower tiers of higher education, including most of the institutions with faculty collective bargaining.

Aside from questions about the data used in the October 22 essay, the two most common questions put to me concern two down-to-earth matters. One concerns the costs to you of collective bargaining in the form of the union dues necessary to finance

the expenses of the "labor side" in collective bargaining.[2] I understand that the local AAUP chapter anticipates local dues equal to three-fourths of one percent of salary, the level that prevails at some other places with AAUP contracts, like Wayne State where the dues are deducted from paychecks by the university under a voluntary "check-off" system. I do not believe that your decision for or against collective bargaining should be made on the basis of the anticipated level of dues, for the decision is too important for that. Nonetheless, there is a cost, in the form of dues that you will be expected to defray, if you choose collective bargaining.

The second such question concerns the reversibility of the collective bargaining decision: if we don't like the results of collective bargaining, how hard is it to reverse the decision? For all practical purposes, the law requires that you give it a try for at least one year after the initial certification of a union as collective bargaining agent. If a contract is agreed, the question may not be re-opened until the expiration of the contract, a period limited by law to not more than three years. Since collective bargaining in higher education is so new, there is no experience to suggest how hard or easy it is to reverse the decision; however, it must be said that, if you do vote for collective bargaining and decide subsequently that it was not a good idea, you will not have the services and counsel of a national organization in trying to reverse the decision, while AAUP or UFCT will have such assistance in trying to retain the bargaining agent designation.

Now for the point that disturbs me. In the course of writing these essays and discussing them with some of you, I have wondered why everyone does not share my view that unionization is a bad idea whose time has passed. A few explanations, which have not been treated adequately in the earlier essays, keep recurring.

---

2) You should not expect that national union organizations will finance local collective bargaining costs, without collecting offsetting dues. Local AAUP spokesmen have pointed this out scrupulously.

1. Many of you have a sense of powerlessness as individuals within the University unable to directly affect decisions of great importance to you, despite the elaborate governance mechanisms that exist. However, in any large organization, some form of representative decision-making must be the rule; the question before you is whether you as individuals will be more potent under a regime of collective bargaining than under the existing arrangements. I can comment on this no better than by quoting from a statement issued on October 4, 1973 by fifteen Syracuse University professors organized as a committee of "AAUP Members Opposed to Collective Bargaining:"

> "The election to be held on October 25 is not, we believe, a choice between the AAUP and the Administration. It is, rather, a choice between continuation of a collegial system, in which the AAUP serves as an always vigilant and independent spokesman for the faculty, and the use of AAUP as collective bargaining agent. We accept the proposition that faculty members must bargain, but we challenge, for a number of reasons, the proposal to bargain like labor unions.
>
> Our present system of bargaining is not simply individual, as distinct from "collective": it is <u>collegial</u> in the sense that we bargain as members of departments and colleges, as well as a university, in addition to the efforts made by each one of us on his or her own behalf. The highly complex system which pays different salaries to different ranks, and which provides differentially for teaching loads, leaves of absence, advising responsibilities, and other academic functions, reflects a process of taking counsel together in the groupings appropriate to our academic interests and competencies. We are hired by persons expert in the fields in which we teach and do research; our tenure and our promotion depend upon the opinions of those who are most competent to judge our academic qualifications. Our salaries are determined through negotiations between central administrators and chairmen and deans in whose selection we participate.
>
> In contrast with collegial bargaining, the proposed collective bargaining procedure ignores academic distinctions in its focus upon mobilizing economic power."

Of course, NYU's present system of collegial bargaining is far from ideal, just as the Syracuse system is far from ideal. The choice before you is between a system that I think is inherently right for higher education -- but which needs constant improvement -- and a system that, in its rigidity and pressures for uniformity, is inherently wrong, in my view.

2. Many, if not most of you have complaints and grievances of all sorts, against chairmen, colleagues, students, deans and the central administration, complaints that have not been resolved properly under the present set of relationships upon which I have heaped such fulsome praise. Unionization may be seen as a general solvent for those complaints and grievances. Collective bargaining, however, can resolve, for good or for ill, only a limited range of issues. Many personal and professional grievances involve students and colleagues, not administrators. Such complaints often will remain unresolved, in a world of imperfect people and institutions, and you should not choose collective bargaining in the vain hope that it can do everything.

3. Many of us were nurtured on the notion that unions and collective bargaining are Good Things that all right-minded people should support. For most people over 40, to be against unions is to be Neanderthal in one's social views. I think that to make your voting decision on the basis of what can be considered, at worst, sentimentality and, at best, an uncritical generalization is to abandon the scholar's special charge to make fine distinctions and critical evaluations of the matters before us.

4. In addition, there is the notion that collective bargaining is the wave of the future. More likely, it can be considered the wave of the past, something that you would be opting for just when it is becoming evident, in other walks of life, that its day has passed. Not only is collective bargaining uncommon in the better institutions of higher education -- its defeat at Syracuse on October 25 is the best case in point[3] -- but it is a declining force elsewhere. For example,

---

3) The vote at Syracuse was 364 for no collective bargaining and 328 for the AAUP; no other union was involved.

in 1945, 35 percent of the American nonfarm labor force was unionized; this percentage had declined to 26 by 1972.

Moreover, in industry in both North America and Western Europe, there is an increasing search for and experiment with forms of governance and management that substitute for traditional collective bargaining. The most interesting and successful such experiments amount to attempts to reproduce the collegial governance arrangements that already exist in the upper tiers of higher education, including this University. Our arrangements are very imperfect, but the groping to imitate such poor arrangements elsewhere suggests that they may be -- like democracy -- the worst form of governance known, except for all the alternatives.

In these essays, I have tried to focus on issues and concerns relating to your own interests, individually and collegially as members of this academic community. We have been through too much travail in recent years, with salary freezes, cut-backs and the loss of the Heights (not to mention the nonfinancial troubles of the 1966-1970 period), to warrant anyone asking you to vote on November 14-15 on the basis of more remote concerns for the state of American higher education in general -- to urge that you sacrifice yourselves on the altar of more general academic issues. However, I believe that you would lose, not gain, individually and collegially from collective bargaining. If so, then it is ethically acceptable for me to urge you to consider also that to be the first high-quality institution to vote for collective bargaining is to take the first step on a long journey that, if completed, would change higher education in this country for the worse, and seriously so. As Professor Robert K. Carr, one-time general secretary of AAUP and president of Oberlin, wrote:[4)]

> "It is my own belief that the autonomy of the individual institution will be further weakened where collective bargaining comes into being, and that this will mean a further loss of the diversity which always characterized American higher education and which is regarded as having contributed

---

4) "The Troubled Professor," in R.E. Hewitt (editor), The Effects of Faculty Collective Bargaining on Higher Education (1972 Conference Proceedings, New England Board of Higher Education), pp. 52-53.

> so importantly to the excellence of our system. Collective bargaining is a particular process, defined by statutes and controlled at crucial points by public and semi-public agencies. Many important decisions which institutions have been accustomed to making in their own way, will, under collective bargaining, be made by labor boards, by courts and by arbitrators. I find myself compelled to say that I am not very enthusiastic about this, although there are other observers who disagree on this point. I happen to believe that many of the people who man these agencies, including judges, will bring very little special competence or deep understanding of our needs to the task of shaping the profile of higher education. The process of arbitration is particularly fraught with peril for institutions. And colleges and universities have not even yet started to discover what they may be up against as unfair labor practice charges are brought against them and are considered and ruled upon by labor boards and the courts."

To reverse Clemenceau's famous phrase about war and generals, I believe that higher education is too important not to be left to faculty members and allied professionals like librarians, students and administrators to manage and control. If you agree, this calls for a vote against introduction of the Federal industrial relations machinery, procedures and restraints into our academic and professional concerns.

Whether you agree or not, please vote on November 14-15. The decision is an important one, and it will be decided by a majority of those actually voting. In the absence of a Daily News straw poll, it's anyone's guess as to how the election will turn out; it could be decided by a very small margin in which your own vote is crucial.

Finally, thank you for bearing with me and reading these essays, which no doubt were harder for you to read than for me to write.